

### REMARKS

Claims 1-3, 6-8 and 10-35 are currently pending in the subject application and are presently under consideration. Claims 4-5 and 9 have been cancelled. Claims 1, 8, 25, 29, 32, 33, 34, and 35 have been amended as shown on pp. 2-6 of the Reply.

Applicants' representative thanks Examiner Jung for the courtesies extended during the telephonic interview conducted on January 15, 2008. The Examiner was contacted to discuss proposed amendments to overcome the rejection under 35 U.S.C. § 103. The examiner suggested some changes to the claims.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

The subject claims generally relate for a system and method facilitating pre-operating system boot phase from a hibernation, wherein the BIOS employs the decryption information provided from this interface in order to decrypt the data, for example, a hibernate file. An interface is defined between the operating system and the BIOS. The operating system employs this interface to provide BIOS code information to facilitate decryption of data that is encrypted on the system and/or encryption of data (*e.g.*, encryption algorithm). In the pre-operating system boot phase, the BIOS employs the decryption information provided from this interface in order to decrypt the data, for example, a hibernate file. To this end, claim 1 (and similarly claims 8, 25, 29, and 32-35) recite: *a communication component that receives a request for **decryption information from a BIOS component during an operating system boot process occurring after a hibernate mode.*** The cited art fails to teach or suggest such claimed aspects.

#### **I. Rejection of Claims 1-3, 6-8 and 10-35 Under 35 U.S.C. §103(a)**

Claims 1-3, 6-8, and 10-35 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Arbaugh (cited by Applicant, William A Arbaugh *et al.*, Automated Recovery in a Secure Bootstrap Process, August 1, 1997, pp. 1-17) and ACPI (cited by Applicant, Advanced Configuration and Power Interface Specification, Revision 2.0a, Compaq/Intel/Microsoft/Phoenix/Toshiba, March 31, 2002) and Allgeuer (Why Bother About Bio Security?).

More specifically, the office action stated that “Upon another study of Arbaugh (part of prior art), the Office noticed page 27 and figure 3.1 of Arbaugh”. However, Arbaugh is only 17 pages long and does not contain a figure 3.1. Therefore, clarification is requested and the finality of the office action dated 12-12-07 be withdrawn.

Additionally, there is no motivation in the cited art to combine the cited art as used in the rejection. For example, ACPI is an Advanced Configuration and Power Interface Specification that specifies several different power modes. However, there is no motivation in ACPI to be combined with Arbaugh or Allgeuer. Additionally, there is no motivation in Arbaugh or Allgeuer for either of them to be combined with ACPI. Moreover, besides the motivation, an expectation for success must also be found in the prior art itself. Here no such expectation is set forth. Also the combination of elements from nonanalogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. That knowledge can not come from the applicants' invention itself. *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 678-79, 7 USPQ2d 1315, 1318 (Fed. Cir. 1988); *In re Geiger*, 815 F.2d 686, 687, 2 USPQ2d 1276, 1278 (Fed. Cir. 1987); *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1147, 227 USPQ 543, 551 (Fed. Cir. 1985). It is respectfully submitted that ACPI addresses power consumption issues while Arbaugh is directed toward security issues and therefore these two sources are nonanalogous sources. And there is no motivation to combine found in the art itself.

Claim 1 (and similarly claims 8, 25, 29, and 32-35) recite: *a communication component that receives a request for **decryption information from a BIOS component during an operating system boot process occurring after a hibernate mode***. The cited art fails to teach or suggest such claimed aspects. Rather, ACPI merely addresses power consumption issues while Arbaugh merely describes security issues and some solutions. However, the art taken as a whole does not fairly suggest or describe *a communication component that receives a request for **decryption information from a BIOS component during an operating system boot process occurring after a hibernate mode***.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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